

**REMARKS**

This Amendment is filed in response to the Office Action mailed on November 19, 2004. All objections and rejections are respectfully traversed.

Claims 1- 36 are in the case.

Claim 1 was amended to better claim the invention.

Claims 13-36 were added to better claim the invention.

At Page 2 of the Office Action, claims 1-3 and 5-11 were rejected under 35 U.S.C. § 102(b) as being anticipated by Morita et al., U.S. Patent No. 5,872,906 issued on February 16, 1999, hereinafter Morita

The present invention, as set forth in independent claim 1, comprises in part:

1. A method for a file server to allocate a spare disk to replace a failed disk in a network storage system comprising the steps of:  
*identifying a set of spare disks, the set of spare disks attached to the network storage system;*  
*choosing a best spare disk of the set of spare disks;* and  
claiming ownership of the best spare disk.

Morita discloses a method for replacing a failed disk in a storage system by a spare disk. The spare disk is identified by its “rank”, and has four classifications. The

classifications are: I. each rank has a spare disk; II. a spare disk may be used in a plurality of ranks; III. the positions of the spare disks are fixed; IV. the position of the spare disk is moveable. (Morita, Col. 1, lines 56-63.) The “position” of Morita’s spare disk is identified by the port to which the disk is attached.

Applicant respectfully urges that Morita has no disclosure of Applicant’s claimed novel *identifying a set of spare disks, the set of spare disks attached to the network storage system;*

*choosing a best spare disk of the set of spare disks.*

As set out in Claim 1, Applicant’s spare disks are described as, *the set of spare disks attached to the network storage system*, that is, Applicant’s set of spare disks are attached in the network storage system without regard to the ports, and without regard to the other identifiers used by Morita.

Accordingly, Applicant respectfully urges that Morita is legally precluded from anticipating the presently claimed invention under 35 U.S.C. 102 because of the absence from Morita of any disclosure of Applicant’s claimed novel *identifying a set of spare disks, the set of spare disks attached to the network storage system;*

*choosing a best spare disk of the set of spare disks.*

At Page 5 of the Office Action, Claims 4 and 12 were rejected under 35 U.S.C. § 103 as being unpatentable over Morita.

Applicant respectfully notes that Claims 4 and 12 are dependent claims. Claims 4 and 12 are believed to be dependent from independent claims, and that the independent claims are in condition for allowance. Accordingly, Claims 4 and 12 are believed to be in condition for allowance.

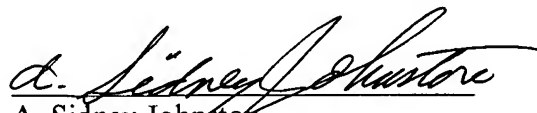
All independent claims are believed to be in condition for allowance.

All dependent claims are dependent from independent claims which are believed to be in condition for allowance. Accordingly, all dependent claims are believed to be in condition for allowance.

Favorable action is respectfully solicited.

Please charge any additional fee occasioned by this paper to our Deposit Account No. 03-1237.

Respectfully submitted,



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